

SENATE BILL 1063

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2lr3372
CF 2lr3370

By: **Senator Kittleman**

Introduced and read first time: February 29, 2012

Assigned to: Rules

A BILL ENTITLED

1 AN ACT concerning

2 **Workers' Compensation Commission – Jurisdiction Over Claims on Appeal –**
3 **Limitation**

4 FOR the purpose of providing that, in the case of a workers' compensation claim that
5 is on appeal, the Workers' Compensation Commission has continuing powers
6 and retains jurisdiction over the claim only to consider certain requests; making
7 conforming changes; and generally relating to the jurisdiction of the Workers'
8 Compensation Commission over claims on appeal.

9 BY repealing and reenacting, with amendments,
10 Article – Labor and Employment
11 Section 9–736 and 9–742
12 Annotated Code of Maryland
13 (2008 Replacement Volume and 2011 Supplement)

14 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
15 MARYLAND, That the Laws of Maryland read as follows:

16 **Article – Labor and Employment**

17 9–736.

18 (a) If aggravation, diminution, or termination of disability takes place or is
19 discovered after the rate of compensation is set or compensation is terminated, the
20 Commission, on the application of any party in interest or on its own motion, may:

21 (1) readjust for future application the rate of compensation; or

22 (2) if appropriate, terminate the payments.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (b) (1) **(I)** [The] **SUBJECT TO SUBPARAGRAPH (II) OF THIS**
2 **PARAGRAPH, THE** Commission has continuing powers and jurisdiction over each
3 claim under this title.

4 **(II) IF A CLAIM IS ON APPEAL, THE COMMISSION HAS**
5 **CONTINUING POWERS AND JURISDICTION OVER THE CLAIM ONLY TO THE**
6 **EXTENT AUTHORIZED UNDER § 9-742 OF THIS SUBTITLE.**

7 (2) Subject to paragraph (3) of this subsection, the Commission may
8 modify any finding or order as the Commission considers justified.

9 (3) Except as provided in subsection (c) of this section, the Commission
10 may not modify an award unless the modification is applied for within 5 years after
11 the latter of:

12 (i) the date of the accident;

13 (ii) the date of disablement; or

14 (iii) the last compensation payment.

15 (c) (1) If it is established that a party failed to file an application for
16 modification of an award because of fraud or facts and circumstances amounting to an
17 estoppel, the party shall apply for modification of an award within 1 year after:

18 (i) the date of discovery of the fraud; or

19 (ii) the date when the facts and circumstances amounting to an
20 estoppel ceased to operate.

21 (2) Failure to file an application for modification in accordance with
22 paragraph (1) of this subsection bars modification under this title.

23 9-742.

24 (a) [The] **EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS SECTION,**
25 **THE** Commission retains jurisdiction [pending an] **OVER A CLAIM ON** appeal **ONLY** to
26 consider:

27 (1) a request for additional medical treatment and attention;

28 (2) a request for temporary total disability benefits, provided that the
29 covered employee's temporary total disability benefits were granted in the order on
30 appeal, and were terminated by the insurer or self-insurer pending adjudication or
31 resolution of the appeal; and

1 (3) a request for approval of a proposed settlement of all or part of a
2 claim.

3 (b) (1) If the Commission finds that a covered employee needs additional
4 medical attention pending an appeal, the Commission may pass a supplemental order
5 requiring the employer to provide additional medical treatment and attention.

6 (2) If the Commission finds that a covered employee's temporary total
7 disability benefits were terminated pending adjudication or resolution of the appeal,
8 and that the employee was temporarily totally disabled at the time of termination, the
9 Commission may pass a supplemental order requiring the employer to provide the
10 employee with temporary total disability benefits.

11 (3) If the Commission's decision to reinstate temporary total disability
12 benefits is reversed or modified on appeal, the insurer or self-insurer shall be entitled
13 to an offset or credit for overpayment of the temporary total disability benefits granted
14 in the supplemental order.

15 (c) A supplemental order passed by the Commission under this section is
16 subject to review on the pending appeal.

17 (d) When an appeal that is pending relates solely to a penalty imposed by the
18 Commission, the Commission retains jurisdiction over all matters in the case other
19 than imposition of the penalty.

20 (e) This section may not be construed to prevent the Commission from
21 ordering an offset or credit against an award for temporary total or permanent partial
22 disability benefits for any temporary total disability benefits previously paid to a
23 covered employee, as authorized under any other provision of this title.

24 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
25 October 1, 2012.